FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.502 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr.N.R.Bubna for the petitioner.

Mr.P.S.Hingorani APP for the State.

Coram : R.S.Mohite,J

Date : 14.3.2006.

PC

1. This is a petition filed by the husband impugning orders of the 2 lower Courts refusing to vary an order passed under Section 125 of the Cr.P.C. granting maintenance of Rs.700/- to the wife and Rs.300/- to the minor son. I have perused the record. There were 3 grounds on which maintenance are sought to be varied. The first ground was that after passing of the order the petitioner had divorced his wife. The 2nd ground was that the wife had started earning the salary and the 3rd ground was financial

condition of the petitioner had become worse because earlier he had 4 power looms which he had hired. That after the lease agreement had expired he had now become a labourer and earning Rs.300/- a week. As regards factum of divorce that by itself cannot be a ground for varing maintenance. Under Section 125 of Cr.P.C. a divorced wife is also entitled for maintenance. So mere grant of divorce cannot by itself a ground for varing maintenance. As has been rightly observed by the lower Court that if after divorce the husband had paid reasonable maintenance for her life time within a period of iddat then the situation might have amounted to change of circumstances. However, no such offer is made. As regards the wife earning Rs.700 to Rs.800 per month, there is no reliable evidence led regarding this fact. As regards the petitioner having become a power loom worker, the evidence of the person who had

given him power loom on hire is not led. No evidence is led to substantiate that he is a power loom worker by examining any person who had given employment to him. In the circumstances, I find nothing perverse in the impugned judgment and order. Hence, in my view, this is not a fit case to exercise jurisdiction under Article 227 of the Constitution of India. Hence, petition is dismissed.

(R.S.Mohite,J)